Supreme Court, U. S.
FILED
AUG 12 1978
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NO. 78-248

UNITED STATES, EX REL FRANK L. SESSOMS,
Petitioners" Pro Se in Error

v.

REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNA./STEVEN PETZ, L. S. PATTON, JACK MALONE, NORMAN MOWAD, FRANK C. SERNA, ANDREW J. MATIYAK AND HAMPTON GRANT

Respondents" in Error

UNITED STATES, EX REL FRANK TANGORA,
Petitioners" Pro Se in Error

v.

REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNA./STEVEN PETZ, L. S. PATTON, JACK MALONE, NORMAN MOWAD, FRANK C. SERNA, ANDREW J. MATIYAK AND HAMPTON GRANT

Respondents" in Error

DIRECT REVIEW FROM U. S. DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, JURISDICTIONAL STATEMENT

FRANK L. SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna.

SMITH BROS., LAW PRINTERS, 620 SECOND AVENUE, PITTSBURGH, PA. 15219

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Respondents" in Error

PETITION FOR A DIRECT REVIEW OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, PITTSBURGH, PA.

Petitioners pray that Jurisdiction on Appeal to review the judgment of the United States Court For The Western District of Pennsylvania entered in the above case on March 8th, 1978.

OPINION AND ORDER BELOW

The memorandum and order of March 8th, 1978 of the District Court for Western District of Pennsylvania, unreported at Docket No. 78-76 and 78-115.

JURISDICTION

The judgment and order of the United States District Court for the Western District of Pennsylvania was entered on March 8th, 1978. The jurisdiction of this court is invoked under 28 USC sec. 1252.

QUESTIONS PRESENTED

Whether the petitioners are entitled to prosecute their complaint under 28 USCA * 1345, which alleges damages in the excess of $10,000 exclusive of costs and interests and which is based upon allegations of multiple violations of fundamental constitutional rights.

STATUTES INVOLVED

The statutory provisions involved are (28 USCA * 1345; 28 USCA * 1331(A); 28 USCA * 1332; 28 USCA * 1343 (3) (4); ART. III * 2; ART. I * 8; ART. VI * 2; ART. III * 1; 42 USCA 1983, 42 USCA 1981, 42 USCA 1982, 42 USCA * 1985(2-3) and 42 USCA 1988.

STATEMENT OF CASE

UNITED STATES, EX REL FRANK L. SESSOMS, and United States, ex rel Frank Tangora, filed a complaint in these instance cases under Title 28 USCA * 1345; 28 USCA * 1331 (A); 28 USCA * 1332. The complaint claims damages in excess of $10,000, exclusive of costs and interests. The specific allegations of their allegations of their complaint are;

Defendants Redevelopment Authority of Beaver County, Beaver, Penna./Steven Petz, et al. conspiring under the color of state law to deprive United States, Ex Rel Frank L. Sessoms and United States, Ex Rel Frank Tangora, of their rights to enjoyed property without unlawful deprivation in gross invasion of rights under the following Articles I, IV., V., VIII, IX, X, XIII * @ 2 and XIV * 2 * V of the Federal Constitution, without hearing, notice, or compensation.

A hearing was held on March 8, 1978, Pittsburgh, PENNA. before the Honorable Hubert I. Teitelbaum.

During the hearing the Honorable Hubert I. Teitelbaum made statements that the plaintiffs' United States, Ex Rel Frank L. Sessoms and United States, Ex Rel Frank Tangora, should be in the Common Pleas Court of Beaver County, several times.

The Court: Ladies and gentlemen, I thought I would call an oral argument about this general matter because it appears to me that there have been ten actions filed by various parties. Each of the actions always seem to be just about the same.

In other words, no sooner is it passed on, then another one is filed, and its the same thing, also, it has

gone to the Court of Appeals several times and they have said it isn't a cause of action. Now, the cause of action, it seems to me, in this case ought to be brought before the court of Common Pleas in Beaver County, rather than here in Federal Court, I think we've said that several times, but no sooner do we dispose of one case and we get three more. We can't go that way. Now, why do the plaintiffs' not want to bring the case where it ought to be brought?

The Court: Common Pleas can enforce the Constitution of the United States just as this court can and this is the kind of case that's peculiary appropriate, not for this court, but for the state court.

The Court: Well, I thought we talked this over. We could explain it to all of you that this case doesn't belong here and merely following additional filing, you are going to have the same result and therefor I urge you to go to Beaver County Court and bring this action.

The Court: They can raise that same question in Beaver; the property is in Beaver.

The Court: Beaver County's courts are as much subject to the Constitution of the United States as this court is, now, what you should do is bring your action in Beaver and if you aren't happy with the results, go to Commonwealth Court, or go to the Superior Court, or go to the Supreme Court, whichever is appropriate, but this court isn't.

The Court: Well, there are remedies. There are higher courts. Pennsylvania has got plenty of higher courts, you know, and you can go there. We don't have to review what the Beaver County Court does. That's not our function. The judgment of March 8th of 1978,

constitute of an 'abuse of discretion, the judgment demonstrate a perversity of will, a defiance of good judgment and bias.

The plaintiffs' United States, Ex Rel Frank L. Sessoms and United States, Ex Rel Frank Tangora, can't understand why they can't prosecute their claims under 28 USCA * 1345.

The Trial Court used a case which is moot, 77-2 which is very wholly inconsistent with the facts and circumstance before the court and unreasonable, unconcionable or arbitrary action taken without proper consideration of the facts and laws pertaining to matter submitted.

Respectfully submitted

MR. FRANK L. SESSOMS, PRO SE
1461 Green Street
Aiquippa, Pa. 15001

REASONS FOR GRANTING RELIEF

The district courts have jurisdiction of "civil actions, suit or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress" regardless of the amount in controversy. *U. S. v. National Biscuit Co.,* D.C. N.Y. 1939, 25 F. Supp. 329; *U. S. v. Ascher,* D.C. Cal. 1943, 49 F. Supp. 257; *U. S. v. Flowerney Live-Stock *Real Estate Co.,* CC Neb. 1896 71 F. Supp. 576; *Woods v. Kern,* C.A. 3d 1950, 181 F.2d 499; *Woods v. Bomboy,* C.A. 3d 1950, 179 F.2d 565.

Constitutional Rights

The United States had standing with or without statutory authorization to bring an action against the city rail and bus terminals. *U. S. v. City of Jackson, Mississippi,* 5th, 1963, 318 F. 2d 1.

The United States had standing as plaintiffs' to protect and assert the substantial interest that it has in the invalidation of anti-miscegenation laws irrespective of specific statutory mandates and notwithstanding subsequent partial self-help applied by a Caucasian-Negro couple who went across the state line for a marriage license. *U. S. Brittan,* D.C. ALA. 1970, 319 F. Supp. 1058; In *U. S. v. Brand Jewelers, Inc.,* D.C. N.Y. 1970, 318 F. Supp. 1293, noted 1971, 37 Brooklyn L. Rev. 426, 84 Harv. L. Rev. 1930, 46 N.Y. U.L. rev. that the United States had standing to seek to enjoin the practice of "sewer service" by which defendants bring state court actions against debtors and obtain default judgments on the basis of affidavits falsely reciting that service has been made. The government's standings were based on its authority to remove large scale burdens on interstate commerce and to correct widespread violations of the right not to be deprived of property without due process of law.

U. S. v. City of Shreveport, Louisana, D.C. L.A. 1962, 210 F. Supp. 36 (standing to seek to enjoin racial discrimination in dining and rest room facilities at municipal airport.)

Power to Authorize

In *U. S. v. Raines,* 1960, 80 S.Ct. 519, 362 U.S. 17, 4 L.ED. 524, the court upheld the constitutionality of 42 USCA * 1971 (C), which provides that the United States may institute a civil action "whenever any persons has engaged or there are reasonable grounds to believe that any persons is about to engage in any act or practice which would deprive any other person of any other right or privilege secured by subsection **** It stated; It is urged that it is beyond the power of Congress to authorized the United States to constitutional guarantees, including those that bear the most directly on private rights and we think it perfectly competent for Congress to authorize the United States to be the guardians of that public interest in a suit for injunctive relief." 80 S. Ct. at 526, 362 U.S. at 27 (per Brennan, J.)

CONCLUSION

The action of the District Court express an complete lack and disregard for petitioners' constitutional rights, directing the restoration of the petitioners' to rights, and privileges of which they have been illegally deprived.

The judgment has so far departed from the accepted and proper course of judicial proceedings as to call for an exercise of this court's exercise of supervision, particularly in view of the continuing damages being sustained.

Respectfully submitted,

FRANK L. SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna. 15001

August 10, 1978

APPENDIX A

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES, ex rel FRANK L. SESSOMS, Plaintiffs, v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNA. and STEVEN PETZ, L. S. PATTON, JACK MALONE, NORMAN MOWAD, FRANK C. SERNA, ANDREW J. MATIYAK and HAMPTON GRANT, Defendants.	Civil Action No. 78-76
UNITED STATES, ex rel FRANK TANGORA, Plaintiffs, v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNA. and STEVEN PETZ, L. S. PATTON, JACK MALONE, NORMAN MOWAD, FRANK C. SERNA, ANDREW J. MATIYAK and HAMPTON GRANT, Defendants.	Civil Action No. 78-115
CATHERINE SESSOMS, Plaintiff, v. STEVEN PETZ, HAMPTON GRANT, L. S. PATTON, ANDREW J. MATIYAK, JACK L. MALONE, NORMAN MOWAD and FRANK C. SERNA, Defendants.	Civil Action No. 77-1463

Order

AND NOW, this 8th day of March, 1978, upon consideration of defendants' motions to dismiss in the

Appendix A.

above-captioned cases, IT IS ORDERED that said motions are hereby granted for the reasons set forth in a memorandum and order captioned *Frank Tangora and Frank L. Sessoms and Catherine Sessoms, his wife v. Steven Petz, Hampton Grant, L. S. Patton, Andrew J. Matiyak, Jack Malone and Norman Mowad,* Civil Action No. 77-2 (W.D. Pa. August 5, 1977) and the above actions are hereby dismissed.

HUBERT I. TEITELBAUM
United States District Judge

copies to:

Frank L. Sessoms, Catherine Sessoms
1461 Green Street
Aliquippa, PA 15001

Frank Tangora
145 Spring Hill Road
Aliquippa, PA 15001

Thomas C. Mannix, Esquire
Whitmire & Mannix
Federal Title & Trust Building
Beaver Falls, PA 15010

Appendix B.

APPENDIX B

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES, ex rel FRANK L. SESSOMS, Plaintiffs, In Error, Pro Se v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNSYLVANIA, et al. Defendants, In Error	Civil Action No. 78-76
UNITED STATES, ex rel FRANK TANGORA, Plaintiffs, In Error, Pro Se v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNSYLVANIA, et al. Defendants, In Error	Civil Action No. 78-115

Notice of Appeal

Notice is hereby given that United States, Ex Rel Frank L. Sessoms, Plaintiffs' Pro Se above-named, hereby appeals to the Supreme Court of the United States from the final judgment on plaintiffs' Motion to Vacate or Amend Judgment Entered in this action on March 24, 1978.

Appendix B.

This appeal is taken pursuant to United States Code Title 28 Section 1252.

FRANK L. SESSOMS, PRO SE
1461 Green Street
Aliquippa, Pa. 15001

Proof of Service:

Hubert I. Teitelbaum, U. S. District Judge,
Pittsburgh, Pa.

Jack L. Wagner, Clerk of Courts
Thomas C. Mannix, Whitmire & Mannix
Defendants Attorneys
Beaver Falls, Pa. 15010
Dated: June 14, 1978

Appendix C.

APPENDIX C

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES, ex rel FRANK L. SESSOMS, Plaintiffs, v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNSYLVANIA, et al. Defendants.	Civil Action No. 78-76
UNITED STATES, ex rel FRANK TANGORA, Plaintiffs, v. REDEVELOPMENT AUTHORITY OF BEAVER COUNTY, BEAVER, PENNSYLVANIA, et al. Defendants.	Civil Action No. 78-115

Order

AND NOW, this 24th day of March, 1978, upon consideration of plaintiffs' motion to vacate or amend judgment in the above-captioned cases, IT IS ORDERED that said motions are hereby denied for the reasons set forth

Appendix C.

in *Tangora, et al v. Petz, et al.*, Civil Action 77-2 (W.D. Pa. August 5, 1977).

HUBERT I. TEITELBAUM
United States District Judge

copies to:

Frank L. Sessoms
1461 Green Street
Aliquippa, PA 15001

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Thomas C. Mannix, Esquire
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Beaver Falls, PA 15010

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Respondents" in Error

MOTION TO DISMISS APPEAL

Lee E. Whitmire Jr.
Attorney at Law
Federal Title & Trust Bldg.
Beaver Falls, PA 15010

MOTION TO DENY AND DISMISS APPEAL

TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The Appellees, THE REDEVELOPMENT AUTHORITY OF THE COUNTY OF BEAVER, STEVEN PETZ, L. S. PATTON, JACK MALONE, ANDREW J. MATIYAK AND HAMPTON GRANT, by their undersigned Attorney, respectfully request the Honorable Supreme Court of the United States to deny and dismiss the Appeal taken by the Appellants at the above number and term for the following reasons stated herein:

1. That on March 8, 1978, Judge Hubert I. Teitelbaum, of the District Court for the Western District of Pennsylvania, entered a Final Memorandum and Order dismissing the cases docketed at No. 78-76 and 78-115 for the reasons stated in his Memorandum and Order in

the case captioned, Frank Tangora and Frank L. Sessoms and Catherine Sessoms, his wife, versus Steven Petz, Hampton Grant, L. S. Patton, Andrew J. Matiyak, Jack Malone and Norman Mowad, Civil Action 77-2, Western District of Pennsylvania, August 5, 1977.

2. That in the case docketed in the District Court for the Western District of Pennsylvania at No. 78-76, the Appellant, Frank L. Sessoms was the named Plaintiff and by mere whim, attempted to make the United States a party Plaintiff merely by adding its name to the caption of the litigation.

3. That in the case docketed at No. 78-115 in the District Court for the Western District of Pennsylvania, one Frank Tangora who is not a party to this Appeal was the party Plaintiff and by mere whim added the United States as a party merely by adding its name to the caption of the case.

4. That there is no authority, statute or provision in law for the Plaintiffs in the above captioned cases to have made the United States a party to a suit, nor has the United States ever been a party to the aforesaid actions.

5. That on June 14, 1978, the Appellant, Frank L. Sessoms took an Appeal from the District Court's Memorandum and Order of March 8, 1978, in the cases numbered 78-76 and 78-115, even though the Appellant Frank L. Sessoms was not even a party in the case docketed at No. 78-115.

6. That 28 U.S.C.A., Section 2101, provides that:

> (a). A direct appeal to the Supreme Court from any decision under Sections 1252, 1253 and 2282 of this title, holding unconstitutional in whole or in part, any Action of Congress, shall be taken within thirty (30) days after the entry of an interlocutory or final order, judgment or decree. The record shall be made up in the case docketed within sixty (60) days from the time such appeal is taken under Rules prescribed by the Supreme Court.
>
> (c). Any other appeal or any other writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety (90) days after the entry of such judgment or decree. Any justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty (60) days.

7. That the Appellant has based jurisdiction of this appeal to the Supreme Court of the United States on 28 U.S.C.A., Section 1252, which provides:

> Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and any Court of record of Puerto Rico, holding an Active Congress unconstitutional in any civil action suit or proceedings to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party.

8. That because there is no authority whatsoever for the Appellant,

Frank L. Sessoms, to have made the United States a party to this suit nor did the United States ever intervene in this suit, the jurisdictional statement upon which the Appellant relies to present this appeal has no basis whatsoever. Jurisdiction under 28 U.S.C.A., Section 1252, is only applicable when the United States or any of its agencies or officers or employees is a party to the suit and an act of Congress was held to be unconstitutional. Further, there was no holding by Judge Teitelbaum in the aforesaid actions that any act of Congress was unconstitutional.

9. That the time limit for taking the appeal under Section 1252 as provided by 28 U.S.C.A., Section 2101, was sixty (60) days from the entry of the final order. That since the sixty (60) day appeal period expired on May 8, 1978, before the Notice of Appeal was filed in the District Court for the Western District of Pennsylvania on June 14, 1978, not only is jurisdiction lacking in this appeal, but the appeal was intimely filed.

Wherefore, the Appellees respectfully request the Honorable Court to deny and dismiss the Appellant's Appeal.

RESPECTFULLY SUBMITTED:

Lee E. Whitmire, Jr.

Lee E. Whitmire, Jr.,
Attorney for the Redevelopment Authority
of the County of Beaver

A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF BEAVER :

Before me, the undersigned authority, personally appeared CAROLE L. BLAIR, and after first being duly sworn according to law deposes says that:

1. She is the secretary to Lee E. Whitmire, Jr., the Attorney for the Redevelopment Authority of the County of Beaver.

2. That on September 13, 1978, in her official capacity as secretary to Lee E. Whitmire, Jr., she deposited a sealed envelope, addressed to Frank L. Sessoms, 1461 Green Street, Aliquippa, PA 15001, prepaid, in a United States mailbox and that said envelope contained three (3) copies of the Motion to Dismiss Appeal on Behalf of the Appellee, the REDEVELOPMENT AUTHORITY OF THE COUNTY OF BEAVER.

CAROLE L. BLAIR

Sworn to and subscribed before me this 13th day of September, 1978.

Notary Public

ILA McPEAK, NOTARY PUBLIC
BEAVER FALLS, BEAVER COUNTY
MY COMMISSION EXPIRES SEPT. 29, 1981
Member, Pennsylvania Association of Notaries